

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

PRESENT:
THE HON'BLE SMT JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO :16929 of 1997

&

WRIT APPEAL NO:792 OF 2005

-

DATED:9.10.2007.

WRIT PETITION NO:16929 OF 1997

Between:

B.Narasingarao

.... PETITIONER

AND

The Management of Bharat Heavy Electricals Ltd, Rama-
Chandrapuram, Medak District & another

.....RESPONDENTS

WRIT APPEAL NO:792 OF 2005

The Management of Bharat Heavy Electricals Ltd, Rama-
Chandrapuram, Medak District & another

...PETITIONER.

AND

Labour Court-II, Chandravihar Building, Hyd & another

...RESPONDENTS.

THE HON'BLE SMT JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

-
WRIT PETITION NO :16929 of 1997
&
WRIT APPEAL NO:792 OF 2005

COMMON ORDER: (Per the Honourable Smt.Justice T.Meenakumari)

The writ petition is filed by the petitioner-workman seeking to call for the records pertaining to the order of the Labour Court in I.D.No:256 of 1992, dated 03.7.1995 and to set aside that part of the award insofar as denying the back wages to the workman is concerned and declare that the workman is entitled to full back wages from the date of dismissal to the date of his reinstatement to duty whereas the writ appeal is filed by the Management against the order of the learned Single Judge passed in W.P.No:26689 of 1995, dated 25.2.2005.

The petitioner in the above Writ petition is the workman and the 1st respondent is the management and their status will be referred to as arrayed before the Labour Court for the sake of convenience.

Originally, the workman has filed the I.D.256 of 1992 under section 2-A (2) of the I.D. Act, 1947 seeking to set aside the dismissal order dated 8.5.1982 and reinstate him into service. The Labour Court having observed that the domestic enquiry is not valid and the principles of res judicata do not apply with respect to the order under

section 33-C and when once the enquiry is vitiated, the management has to place material by leading evidence and that so far, no such material has been adduced by the management and thus, the management has failed to prove the charges against the workman and the workman was also acquitted by the criminal Court and the same has also been admitted by the management and therefore, the workman is certainly entitled for reinstatement in view of the failure to prove the charges, passed the award directing the management to reinstate the workman with continuity of service and attendant benefits, but without any back wages. Having aggrieved by the same, the workman has preferred the present writ petition, which is now being disposed of.

On the other hand, the management has also preferred W.P.26689 of 1995 against the order of the Labour Court and the learned single judge having concurred with the view taken by the Labour Court, dismissed the said writ petition on 25.2.2005. Having aggrieved by the same, the present writ appeal is preferred by the management.

Heard the learned counsel for the workman and the learned G.P. for labour and the learned counsel appearing on behalf of the management.

At this stage, the workman has filed an affidavit seeking to permit him to retire on medical grounds with immediate effect on the ground that the management has agreed to pay the retiral benefits. Therefore, he seeks a direction to the management to permit him to retire on medical grounds and pay the retiral benefits.

In the present facts and circumstances of the case coupled with the affidavit filed by the workman and keeping in view the order

of the Labour Court as well as the learned Single Judge, without expressing any opinion on the merits of the case, We feel it appropriate to consider the affidavit filed by the workman and direct the management to permit the workman to retire on medical grounds with effect from 1.11.2007. It is also made clear that the management shall grant all the retiral benefits to which the workman is entitled on his retirement and pay all the monetary benefits, after deducting 17 (b) wages.

Subject to the above direction, both the Writ Petition and the Writ Appeal are disposed of.

(JUSTICE T.MEENAKUMARI)

9th October, 2007

(JUSTICE G.CHANDRAIAH)

Note:

Issue CC in one week

(BO)

gunc/nn

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

-
-
-
-
-

e

9th October, 2007.